

MONTANA LEGISLATIVE HISTORY

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Chapter 664 19 91

Bill H _____ S 393 Original bill & history C

H. Committee on Human Services & Aging

Hearing Date(s) Mar 19 ✓ C

Mar 22 ✓ C

_____ C

_____ C

Date Out Mar 23 ✓ C

S. Committee on Public Health Welfare & Safety

Hearing Date(s) Feb 20 ✓ C

Feb 22 ✓ C

_____ C

_____ C

Feb 22 ✓ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

2/14	INTRODUCED		
2/15	FIRST READING		
2/15	REFERRED TO JUDICIARY		
2/21	HEARING		
2/22	TABLED IN COMMITTEE		
2/22	TAKEN FROM TABLE		
2/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/25	2ND READING PASSED	49	0
2/26	3RD READING PASSED	48	1
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO JUDICIARY		
3/18	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/21	2ND READING CONCURRED	73	21
3/23	3RD READING CONCURRED	72	27
	RETURNED TO SENATE WITH AMENDMENTS		
3/28	2ND READING AMENDMENTS CONCURRED	49	0
4/01	3RD READING AMENDMENTS CONCURRED	48	0
4/03	SIGNED BY PRESIDENT		
4/03	SIGNED BY SPEAKER		
4/04	TRANSMITTED TO GOVERNOR		
4/08	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 384		

EFFECTIVE DATE: 10/01/91

SB 393 INTRODUCED BY KENNEDY

STANDARDS FOR OUT-OF-STATE PHARMACIES AND FOR
PATIENT COUNSELING

2/14	INTRODUCED		
2/15	FIRST READING		
2/15	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/20	HEARING		
2/23	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/25	2ND READING PASSED	49	0
2/26	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/04	FIRST READING		
3/04	REFERRED TO HUMAN SERVICES & AGING		
3/19	HEARING		
3/23	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/06	2ND READING CONCURRED AS AMENDED	89	2
4/06	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING THIS DAY		
4/06	3RD READING CONCURRED	96	1
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	49	0
4/18	3RD READING AMENDMENTS CONCURRED	49	0
4/22	SIGNED BY PRESIDENT		
4/23	SIGNED BY SPEAKER		
4/23	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 664		

EFFECTIVE DATE: 10/01/91

SB 394 INTRODUCED BY SVRCEK, ET AL.

REGULATE CONDUCT OF UTILIZATION REVIEWS BY HEALTH
INSURERS

2/14	INTRODUCED		
2/15	FIRST READING		
2/15	REFERRED TO BUSINESS & INDUSTRY		
2/15	FISCAL NOTE REQUESTED		
2/20	HEARING		
2/21	FISCAL NOTE RECEIVED		

Senator Jacobson said if the Department of Health is willing to add this to their rules then the committee can drop that section of the bill. If it is done by rule instead of by law then we can strike section 3 in it's entirety.

The chairman recognized Dick Paulsen, representing the Department of Health who said he had a draft of the daycare rules and it follows the same wording for use of religious exemptions.

Closing by Sponsor:

Senator Jacobson closed by thanking the committee for a good hearing.

HEARING ON SENATE BILL 393

Presentation and Opening Statement by Sponsor:

Senator Ed Kennedy opened by reading from Exhibit #8.

Proponents' Testimony:

The first witness was Roger Tippy, representing the Montana State Pharmaceutical Association. See Exhibit #9 for a copy of his testimony.

Opponents' Testimony:

The first witness was Rose Hughes, executive director of the Montana Health Care Association. She said she would prefer to testify as neither an opponent nor a proponent. She said they have concerns but not an official position. SB 393 goes beyond the scope and requirements of the federal law. The nursing home community is concerned about the patient counseling aspect of the bill. Logistically, it appears that the provisions in this bill apply to hospitals and nursing homes. If you have 100 or 200 patients who are on a variety of drugs prescribed by doctors and the prescriptions are sent to the pharmacy, they are delivered to the patients and administered by the nursing staff and at what point will the pharmacists come to the nursing home and counsel all the patients. How will this work in an institutional setting. There are very stringent federal regulations relating to drug regiment and review. They have licensed pharmacists as consultants who review the medications on a monthly basis. They are concerned this will be another layer of regulation.

The second witness was Steve Meloy, Bureau Chief of the Professional and Occupational Licensing Bureau, Department of Commerce. He said his interest is fiscal in nature. He said the title suggests they will be required to license out-of-state mail service pharmacy's and he expressed his concern to the sponsor of the bill. There has not been a fiscal note requested.

Questions From Committee Members:

Senator Towe asked Mr. Meloy about the fiscal impact.

Mr. Meloy said it would depend on whether the reporting requirement in Section 4, line 6, is deleted. That would dramatically reduce the fiscal impact. They are looking at about \$4,000 each year if that section were included. This could be raised by a license fee in the amount of about \$275.00.

Senator Pipinich said we were only talking about \$4,000.

Mr. Meloy said that was true. We are understaffed and overworked and have over 45 bills that affect our bureau. If all pass we would have seven more people and almost \$400,000 of appropriation authority. He said at the end of the session he will have to go to Senate Finance and Claims and piece together the increased amount of work and try and get more FTE's. Without the reporting requirement in the bill the fiscal impact would be less than half of \$4,000.

Senator Hager asked Senator Kennedy about patient counseling by pharmacists. He said he takes quite a few different medications and wanted to know about the tracking system.

Senator Kennedy said most towns do not have interaction between pharmacies. He said it is best to deal with just one pharmacy. He said it is fairly easy to keep track of the prescription drugs a person ingests but it is harder to keep track of over the counter drugs and their interaction with the prescription drugs.

Senator Towe asked if the persons selling out-of-state who are located within the State of Montana are adequately covered in the bill.

The chairman recognized Warren Amole, executive director of the Board of Pharmacy. He said that does come up. The one's shipping would be the individual pharmacy's and it is occasional. The facilities addressed by the bill are the American Association of Retired Persons pharmacies that are registered around the country. There are nine other major players in this field and they have 25 facilities in 11 states. The one's performing these functions in-state are the patients of a pharmacist that leave the state during a seasonal period. The National Association of Boards of Pharmacy have approved a resolution that was used as a definition of patient counseling. He said patient pharmacy counseling shall not be required in an institutional setting where a health care professional is authorized to administer the medications. This set of regulations will be offered to the various states and hopefully it will streamline the regulations.

Closing by Sponsor:

Senator Kennedy thanked the committee for a good hearing and asked the committee to look favorably on the bill.

HEARING ON SENATE BILL 408

Presentation and Opening Statement by Sponsor:

Senator Keating opened by saying this bill was introduced at the request of the Department of Institutions in order to address changes in the laws concerning community mental health centers. Certain federal regulations and other changes in state law need addressed through new language in the codes which could be accomplished by amending in certain definitions and clarifications of procedure and duty.

Proponents' Testimony:

The first witness was Dan Anderson, administrator of the Mental Health division, Department of Institutions. See Exhibit #9 for a copy of his testimony.

The second witness was Kathy McGowan, representing the Montana Council of Mental Health Centers. She said they are in full support of the bill and worked with the Department of Institutions. They checked with the organization regularly and were fully cooperative. She urged passage.

The third witness was John M. Shontz, representing the Mental Health Association of Montana. He urged passage.

Opponents' Testimony:

None.

Questions From Committee Members:

Senator Towe asked Mr. Anderson why he was deleting 'pre care and after care'.

Mr. Anderson said it was never clear what the language was intended to provide. In the proposed definition they included areas like 'day treatment services'. All of these categories cover pre-care and after care.

Senator Towe asked the same question to John Shontz and Kathy McGowan.

Mr. Shontz said there are several bills that are adding to the statutes the services actually provided by the Department.

Mme. Chair and Committee:

~~Senator Ed Kennedy~~ *Senator Ed Kennedy*

I introduced Senate Bill 393 at the request of the Montana State Pharmaceutical Association in order to respond to recent changes in the Medicaid law in a way which reflects some new trends in the practice of pharmacy. Today's pharmacist does a lot more than just mix potions or count out pills. The interaction with the patient who comes in to pick up his or her prescription is a very important part of the health care delivery system. Patient counselling helps to avoid adverse interactions between drugs, helps patients understand dosage instructions better, and so forth.

After federal health agencies estimated that incorrect medication was leading to enormous health care costs in terms of extra hospitalization and the like, Congress decided to combat mis-medication by requiring pharmacists to offer to counsel Medicaid patients when they dispense prescriptions. This was included in a provision of the budget bill enacted last October under the nickname of OBRA-90. This law requires each state to include in its Medicaid plan by January 1, 1993 counselling standards which govern the practice of pharmacy with respect to Medicaid patients. Section 1 of my bill is basically the same language Congress used in the OBRA-90 provision, except that it is not limited to Medicaid patients.

It is easy for the Board of Pharmacy to set counselling standards for pharmacists who deal with their patients face-to-face. However, many people now get their medications by mail. They send the prescription to a mail-order pharmacy in New Jersey or somewhere else out of state and a few days later the medicine shows up in the mailbox. Counselling should be available from that mail-order outlet through an 800 number, but the Board of Pharmacy has no current jurisdiction to enforce such a requirement.

Another part of the OBRA-90 mandate for counselling is that drug dispensing done in this remote manner have a toll-free number staffed by competent people a sufficient number of hours each week. Sections 2 through 8 of this bill would give the Board of Pharmacy authority to license out-of-state mail order pharmacy outlets.

Prospective Drug Utilization Review Requirement

(g) DRUG USE REVIEW.-

(1) IN GENERAL.-

(A) In order to meet the requirement of section 1903(i)(10) (B), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs in order to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results. The program shall be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs including education on therapeutic appropriateness, overutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse-misuse.

(B) The program shall assess data on drug use against predetermined standards, consistent with the following:

- (I) American Hospital Formulary Service Drug Information;
- (II) United States Pharmacopeia-Drug Information; and
- (III) American Medical Association Drug Evaluations; and
- (ii) the peer-reviewed medical literature.

(C) The Secretary, under the procedures established in section 1903, shall pay to each State an amount equal to 75 per centum of so much of the sums expended by the State plan during calendar years 1991 through 1993 as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of this subsection.

(D) States shall not be required to perform additional drug use reviews with respect to drugs dispensed to residents of nursing facilities which are in compliance with the drug regimen review procedures prescribed by the Secretary for such facilities in regulations implementing section 1919, currently at section 483.60

of title 42, Code of Federal Regulations.

(2) DESCRIPTION OF PROGRAM.--Each drug use review program shall meet the following requirements for covered outpatient drugs:

(A) PROSPECTIVE DRUG REVIEW.--(i) The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title, typically at the point-of-sale or point of distribution. The review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Each State shall use the compendia and literature referred to in paragraph (1)(B) as its source of standards for such review.

(ii) As part of the State's prospective drug use review program under this subparagraph applicable State law shall establish standards for counseling of individuals receiving benefits under this title by pharmacists which includes at least the following:

(I) The pharmacist must offer to discuss with each individual receiving benefits under this title or caregiver of such individual (in person, whenever practicable, or through access to a telephone service which is toll-free for long-distance calls) who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provisions of such information), the pharmacist deems significant including the following:

(aa) The name and description of the medication.

(bb) The route, dosage form, dosage, route of administration, and duration of drug therapy.

(cc) Special directions and precautions for preparation, administration and use by the patient.

(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

42 U.S.C. 1396r-8

(ee) Techniques for self-monitoring drug therapy.

(ff) Proper storage.

(gg) Prescription refill information.

(hh) Action to be taken in the event of a missed dose.

(II) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

(aa) Name, address, telephone number, date of birth (or age), and gender.

(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

(cc) Pharmacist comments relevant to the individuals drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.



MONTANA STATE PHARMACEUTICAL ASSOCIATION

PO Box 4718 · 1215 11th Avenue · Helena, MT 59601 · 406 449 3843

SENATE HEALTH & WELFARE

EXHIBIT NO. 9 B

DATE 2/26

BILL NO. SB 393

Statement of Roger Tippy
Representing the Montana State Pharmaceutical Assn.

Section 1 of the bill is, as Senator Kennedy has indicated, a paraphrase of the minimum counselling standards the Congress requires states to implement through their Medicaid programs. These standards should be, in our view, applicable to the practice of pharmacy generally. It does not seem proper to have one standard of practice for Medicaid patients and another standard for all other patients.

In the event there should be any difficulty in implementing these standards across the board, the bill has been drawn to give the Board of Pharmacy the discretion to adopt the standards for one or more classes of patients. However, we would anticipate that the Board could make a single set of standards applicable to all patients. The National Association of Boards of Pharmacy (NABP) has a model state regulation for pharmacist counselling as well as one for mail-order pharmacy regulation. Mr. Warren Amole from the Montana Board of Pharmacy will be able to discuss these model regulations with the committee.

The committee may wish to assure itself that the state of Montana has jurisdiction over a business located in some other state which has no agents in Montana and which merely ships medicines by mail to residents of Montana. Sections 2 through 8 of SB393 are modelled on statutes enacted by Idaho and Utah in 1989. A study soon to be published by Prof. Greg Munro of the University of Montana Law School on the subject of mail order pharmacy looked at the laws of 13 or 14 states which regulate out-of-state mail order pharmacy. Prof. Munro concluded that statutes such as Idaho's and Utah's were on the best constitutional ground. He found that there is no express preemption by Congress or by the

1890 - 1990

"A CENTURY OF SERVICE"

FDA. Congress is in fact inviting the states to impose their counselling standards outside their boundaries through the Medicaid program. The burdens on interstate commerce are more than balanced by the benefits to public health, welfare, and safety expressed in section 2.

SB 369, 371, 372 - Jacobsen

DATE 2-20-91

SB 393 - Kennedy

SB 408 - Kentwig

COMMITTEE ON

Public Health, Welfare & Safety

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Les Conger	Christian Science Churches of Montana	SB 372		✓
Bob Mead	State Health Dept.	SB 369		
ELLEN BOURGEOIS	Montana PTA	SB 369	✓	
Wanna Anole	Bd & Pharmacy	SB 373		
B. Wood	Am. Cancer Ass.	SB 369		
Dan Anderson	Dept. Institution	SB 408	✓	
Kathy McSweeney	McMHC	"	✓	
Rosalie Keneff	State Ins. Comm. Office	SB 371		
Therese Anderson	Tel. Assn.	SB 369		✓
Mark [unclear]	MT [unclear]	SB 369		✓
Judith [unclear]	Healthy Mothers, W. Hy. Bd.	SB 371	✓	
Charles R. Brooks	Montana Children's Alliance	SB 369	✓	
Laurie Shadon	MT R & T, L. Assoc.	369		✓
Jim Tuttle	Bozeman Chamber	369		✓
John T. Loerke	MT Chamber	SB 371	✓	✓
H. Stricker MD	MT. Med. Assn	369	✓	
Gregory A. Van Horssen	Academy of Pediatrics	369 371 372	✓	
GENE PHILLIPS	HIAA	SB 371		✓
John Delano	STC	SB 369		✓
WARRY AKEY	P.M.	369		X
ELLEN BOURGEOIS	MT ASSOC OF LIFE UNDERWRITERS	SB 371		X
Tom [unclear]	MT PTA	SB 371	✓	
Mark [unclear]	Health Ins. Assn. Mont.	SB 371		✓
JUDITH CARLSON	BCBSMT	SB 371		✓
Roger Tipping	MT Co NAS-W	SB 369	✓	
	P.T. Reynolds	SB 369		✓

DATE 2-20-91

COMMITTEE ON Public Health

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

EXECUTIVE ACTION ON SENATE BILL 393

Motion:

Senator Franklin moved adoption of the amendment in Exhibit #2.

Discussion:

Senator Towe explained the amendments in Exhibit #2.

Amendments, Discussion, and Votes:

There being no objections the motion carried.

Senator Pipinich asked about out-of-state mail order services.

Senator Towe they are covered. They cannot dispense any drugs.

Chairman Eck asked about the Indian Urban Centers.

Senator Towe said the specific language controls over the general language.

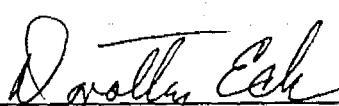
Chairman Eck recognized Roger Tippy, representing the Montana Pharmaceutical Association, who said the language is inserted into the pharmacy practice act governing the way pharmacists do their job.

Recommendation and Vote:

Senator Pipinich moved to pass SB 393 as amended. There being no objections the motion carried.

ADJOURNMENT

Adjournment At: 5:10 p.m.


SENATOR DOROTHY ECK, Chairman


CHRISTINE MANGIANTINI, Secretary

DE/cm

ROLL CALL

PUBLIC HEALTH, WELFARE
AND SAFETY

COMMITTEE

Date 2/22/91

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BURNETT	X		
SENATOR FRANKLIN	X		
SENATOR HAGER	X		
SENATOR JACOBSON	X		
SENATOR PIPINICH	X		
SENATOR RYE	X		
SENATOR TOWE	X		
SENATOR ECK	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1 -
February 22, 1991

MR. PRESIDENT:

We, your committee on Public Health, Welfare, and Safety having had under consideration Senate Bill No. 393 (first reading copy - white), respectfully report that Senate Bill No. 393 be amended and as so amended do pass:

1. Page 3, line 13.

Following: "designate."

Insert: "However, standards provided for in this section may not apply to inpatients of a health care facility in which a nurse or other licensed health care professional is authorized to administer the prescribed drug."

Signed: _____

Dorothy Eck
Dorothy Eck, Chairman

MA 22-91
Amd. Coord.

SP 2-22 8:25
Sec. of Senate

11171250.031

Amendments to Senate Bill No. 393
First Reading Copy

Requested by Senator Tom Towe
For the Senate Public Health, Welfare, and Safety Committee

Prepared by Tom Gomez
February 22, 1991

1. Page 3, line 13.

Following: "designate."

Insert: "However, standards provided for in this section may not
apply to inpatients of a health care facility in which a
nurse or other licensed health care professional is
authorized to administer the prescribed drug."

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 2/22/91 S Bill No. 393 Time 4:16 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATOR JACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary

Chairman

Motion: Senator Franklin moved adoption of the amendment
in Exhibit #2. There being no objection the motion carried.

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH, WELFARE & SAFETY

Date 2/22/91 S Bill No. 393 Time 4:20 p.m.

NAME	YES	NO
SENATOR BURNETT	X	
SENATOR FRANKLIN	X	
SENATOR HAGER	X	
SENATOR JACOBSON	X	
SENATOR PIPINICH	X	
SENATOR RYE	X	
SENATOR TOWE	X	
SENATOR ECK	X	

Secretary

Chairman

Motion: Senator Pipinich moved to pass SB 393 as amended.

There being no objection the motion carried.

SEN. DELWYN GAGE, Senate District 5, Cut Bank, stated that this bill modifies the membership of the Governors Developmentally Disabilities Planning and Advisory Council.

Proponents' Testimony:

Greg Olson, Developmentally Disabilities Planning & Advisory Council (DDPAC), submitted written testimony. EXHIBITS 21 & 22

Chris Valinkety, Developmentally Disabilities Planning & Advisory Council (DDPAC), stated that she lobbies on behalf of 46 non-profit providers and consumers of services for the developmentally disabled (DD).

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. GAGE closed on the bill.

HEARING ON SB 393

Presentation and Opening Statement by Sponsor:

SEN. "ED" JOHN KENNEDY, Senate District 3, Kalispell, submitted written testimony. EXHIBIT 23

Proponents' Testimony:

Roger Tippy, Pharmacy Association, submitted written testimony. EXHIBIT 24

Opponents' Testimony: None

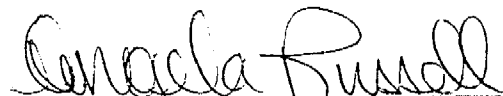
Questions From Committee Members: None

Closing by Sponsor:

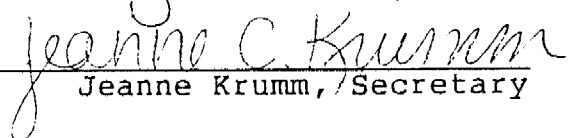
SEN. KENNEDY stated that professional pharmacies have accepted the mandates and realized the importance of patient counseling.

ADJOURNMENT

Adjournment: 5:40 p.m.



ANGELA RUSSELL, Chair



Jeanne Krumm, Secretary

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL

DATE 3-19-91

NAME	PRESENT	ABSENT	EXCUSED
REP. ANGELA RUSSELL, CHAIR	✓		
REP. TIM WHALEN, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. JAN BROWN	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. PATRICK GALVIN	✓		
REP. STELLA JEAN HANSEN	✓		
REP. ROYAL JOHNSON	✓		
REP. BETTY LOU KASTEN	✓		
REP. THOMAS LEE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. JIM RICE	✓		
REP. SHEILA RICE	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		
REP. JESSICA STICKNEY	✓		
REP. BILL STRIZICH	✓		
REP. ROLPH TUNBY	✓		

Mme. Chair and Committee:

~~(introduced by)~~ Senator Ed Kennedy Kalispell

I introduced Senate Bill 393 at the request of the Montana State Pharmaceutical Association in order to respond to recent changes in the Medicaid law in a way which reflects some new trends in the practice of pharmacy. Today's pharmacist does a lot more than just mix potions or count out pills. The interaction with the patient who comes in to pick up his or her prescription is a very important part of the health care delivery system. Patient counselling helps to avoid adverse interactions between drugs, helps patients understand dosage instructions better, and so forth.

After federal health agencies estimated that incorrect medication was leading to enormous health care costs in terms of extra hospitalization and the like, Congress decided to combat mis-medication by requiring pharmacists to offer to counsel Medicaid patients when they dispense prescriptions. This was included in a provision of the budget bill enacted last October under the nickname of OBRA-90. This law requires each state to include in its Medicaid plan by January 1, 1993 counselling standards which govern the practice of pharmacy with respect to Medicaid patients. Section 1 of my bill is basically the same language Congress used in the OBRA-90 provision, except that it is not limited to Medicaid patients.

It is easy for the Board of Pharmacy to set counselling standards for pharmacists who deal with their patients face-to-face. However, many people now get their medications by mail. They send the prescription to a mail-order pharmacy in New Jersey or somewhere else out of state and a few days later the medicine shows up in the mailbox. Counselling should be available from that mail-order outlet through an 800 number, but the Board of Pharmacy has no current jurisdiction to enforce such a requirement.

Another part of the OBRA-90 mandate for counselling is that drug dispensing done in this remote manner have a toll-free number staffed by competent people a sufficient number of hours each week. Sections 2 through 8 of this bill would give the Board of Pharmacy authority to license out-of-state mail order pharmacy outlets.

Prospective Drug Utilization Review Requirement

(g) DRUG USE REVIEW.-

(1) IN GENERAL.-

(A) In order to meet the requirement of section 1903(i)(10) (B), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs in order to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results. The program shall be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs including education on therapeutic appropriateness, overutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse-misuse.

(B) The program shall assess data on drug use against predetermined standards, consistent with the following:

- (I) American Hospital Formulary Service Drug Information;
- (II) United States Pharmacopeia-Drug Information; and
- (III) American Medical Association Drug Evaluations; and
- (ii) the peer-reviewed medical literature.

(C) The Secretary, under the procedures established in section 1903, shall pay to each State an amount equal to 75 per centum of so much of the sums expended by the State plan during calendar years 1991 through 1993 as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of this subsection.

(D) States shall not be required to perform additional drug use reviews with respect to drugs dispensed to residents of nursing facilities which are in compliance with the drug regimen review procedures prescribed by the Secretary for such facilities in regulations implementing section 1919, currently at section 483.60

of title 42, Code of Federal Regulations.

(2) DESCRIPTION OF PROGRAM.--Each drug use review program shall meet the following requirements for covered outpatient drugs:

(A) PROSPECTIVE DRUG REVIEW.--(i) The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title, typically at the point-of-sale or point of distribution. The review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Each State shall use the compendia and literature referred to in paragraph (1)(B) as its source of standards for such review.

(ii) As part of the State's prospective drug use review program under this subparagraph applicable State law shall establish standards for counseling of individuals receiving benefits under this title by pharmacists which includes at least the following:

(I) The pharmacist must offer to discuss with each individual receiving benefits under this title or caregiver of such individual (in person, whenever practicable, or through access to a telephone service which is toll-free for long-distance calls) who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provisions of such information), the pharmacist deems significant including the following:

(aa) The name and description of the medication.

(bb) The route, dosage form, dosage, route of administration, and duration of drug therapy.

(cc) Special directions and precautions for preparation, administration and use by the patient.

(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

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(ee) Techniques for self-monitoring drug therapy.

(ff) Proper storage.

(gg) Prescription refill information.

(hh) Action to be taken in the event of a missed dose.

(II) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

(aa) Name, address, telephone number, date of birth (or age), and gender.

(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

(cc) Pharmacist comments relevant to the individuals drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Human Services & Aging COMMITTEE BILL NO. SB 393
DATE 3-19-91 SPONSOR(S) Sen. Kennedy

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Roger Tippy	Mr. G. Pharmaceutical Assn.	X	
Tom Hozard	Health Ins. Assor. America		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Vote: Motion carried. EXHIBIT 4

EXECUTIVE ACTION ON SB 366

Motion: REP. STICKNEY MOVED SB 366 BE CONCURRED IN.

Motion/Vote: REP. STICKNEY moved to amend SB 366. EXHIBIT 5.
Motion carried. EXHIBIT 6

Motion/Vote: REP. MESSMORE MOVED SB 366 BE CONCURRED IN AS
AMENDED. Motion carried 17-3 with REPS. BOHARSKI, KASTEN and LEE
voting no.

EXECUTIVE ACTION ON SB 393

Motion: REP. MESSMORE MOVED SB 393 BE CONCURRED IN.

Motion/Vote: REP. CROMLEY moved to amend SB 393. EXHIBIT 7.
Motion carried unanimously.

Motion/Vote: REP. MESSMORE MOVED SB 393 BE CONCURRED IN AS
AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 93

Motion: REP. S. RICE MOVED HB 93 DO PASS.

Discussion:

REP. S. RICE submitted testimony on amendments. EXHIBIT 8

Motion/Vote: REP. S. RICE moved to amend HB 93. EXHIBIT 9.
Motion carried unanimously.

Motion: REP. S. RICE moved to amend HB 93. EXHIBIT 10

Discussion:

REP. TUNBY asked the Department of Social and Rehabilitation Services (SRS) if they agree with the amendments. Julia Robinson, Director, SRS, stated that these amendments are above the Governor's budget, however they are funded without pitting the General Fund. We have not taken a position on whether the Governor would report them. REP. S. RICE stated that there is no General Fund impact on the Health Care Association's amendment.

REP. KASTEN asked which bill are we adding these amendments to, the original bill or the gray bill. REP. S. RICE stated that these would be added to the gray bill.

Vote: Motion carried 19-1 with REP. MESSMORE voting no.

HEARING ON SB 172

HOUSE OF REPRESENTATIVES

HUMAN SERVICES AND AGING COMMITTEE

ROLL CALL

DATE 3-22-91

NAME	PRESENT	ABSENT	EXCUSED
REP. ANGELA RUSSELL, CHAIR	✓		
REP. TIM WHALEN, VICE-CHAIR	✓		
REP. ARLENE BECKER	✓		
REP. WILLIAM BOHARSKI	✓		
REP. JAN BROWN	✓		
REP. BRENT CROMLEY	✓		
REP. TIM DOWELL	✓		
REP. PATRICK GALVIN			✓
REP. STELLA JEAN HANSEN	✓		
REP. ROYAL JOHNSON	✓		
REP. BETTY LOU KASTEN	✓		
REP. THOMAS LEE	✓		
REP. CHARLOTTE MESSMORE	✓		
REP. JIM RICE	✓		
REP. SHEILA RICE	✓		
REP. WILBUR SPRING	✓		
REP. CAROLYN SQUIRES	✓		
REP. JESSICA STICKNEY	✓		
REP. BILL STRIZICH	✓		
REP. ROLPH TUNBY	✓		

10:35

3-23-91

JDB

HOUSE STANDING COMMITTEE REPORT

March 23, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Human Services and Aging report that Senate Bill 393 (third reading copy -- blue) be concurred in as amended.

Signed: _____
Angela Russell, Chairman

And, that such amendments read:

1. Page 5, line 7.

Following: ";"

Insert: "and"

2. Page 5, line 9.

Strike: "; and"

Insert: "."

3. Page 5, lines 10 through 22.

Following: line 9

Strike: subdivision (d) in its entirety

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3-22-91
S-393

Amendments to Senate Bill No. 393
Third Reading Copy

For the Committee on Human Services and Aging

Prepared by David S. Niss
March 22, 1991

1. Page 5, line 7.
Following: ";"
Insert: "and"

2. Page 5, line 9.
Strike: "; and"
Insert: "."

3. Page 5, lines 10 through 22.
Following: line 9
Strike: subdivision (d) in its entirety